

DETAILED ACTION - ALLOWANCE

Claim Status

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' amendment and submission filed June 4, 2010 that includes a response to the Office action dated March 15, 2010 has been entered. Claims 1, 4 6, 9 and 18 have been amended. No claims were newly added or cancelled. In view of the allowability of the claims, the species restriction set forth in the Office action dated May 11, 2006 is hereby withdrawn and the non-elected species rejoined.

Claim 1, 2, 4-11, and 17-19 were previously rejected under 35 U.S.C. §103(a) as being unpatentable over Darimont et al. (WO 02/06450; Publication date: 24, January 2002), in view of Furcht et al. (U.S. Patent No. 7,015,037, Provisional Priority to Aug. 5, 1999). Applicants have amended the base claims to introduce a new limitation for *in vivo* expression of a foreign DNA for about one year, not taught by the cited references. Accordingly, the rejection is hereby withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jennifer Wahlsten on June 10, 2010.

The application has been amended as follows:

In the claims,

Claim 1 has been amended as follows:

In line 4, the word “adipocytes” has been replaced with the word “preadipocytes”.

Claim 6 has been amended as follows:

In line 8, the word “adipocytes” has been replaced with the word “preadipocytes”.

Claim 9 has been amended as follows:

In line 6, the word “adipocytes” has been replaced with the word “preadipocytes”.

Claim 18 has been amended as follows:

In line 4, the word “adipocytes” has been replaced with the word “preadipocytes”.

REASONS FOR ALLOWANCE:

The following is an examiner’s statement of reasons for allowance:

The closest prior art of record is that of Darimont et al. describing the primary culture of adipose cells and their de-differentiation into preadipocytes. However, Darimont et al. further required the immortalization of the cells by stably expressing the SV40 large T antigen to allow their long-term survival. In contrast, the instantly claimed primary cultured preadipocytes have been shown to express a secreted protein in a recipient host for about one year in the absence of immortalization. Thus, the cells disclosed in the cited prior art are distinct from those instantly claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Claims 1, 2, 4-11 and 17-19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEREYDOUN G. SAJJADI whose telephone number is (571)272-3311. The examiner can normally be reached on 6:30 AM-3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fereydoun G Sajjadi/
Primary Examiner, Art Unit 1633